



GARY R. HERBERT
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State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

May 16, 2011

CERTIFIED RETURN RECEIPT

7009 3410 0001 4203 1805

Darrell Boepple
Black Gold Organic Fertilizer, Inc.
3802 47th Street
Lubbock, Texas 79413

Subject: Proposed Assessment for State Cessation Order No. MC-2011-25-01, Black Gold Organic Fertilizer, Inc., Rhae Rae Mine, S/019/0064, Grand County, Utah

Response Due By: 30 Days of Receipt

Dear Mr. Boepple:

The undersigned has been appointed by the Division of Oil, Gas & Mining as the assessment officer for assessing penalties under R647-7.

Enclosed is the proposed civil penalty assessment for the above referenced cessation order. The cessation order was issued by Division inspector, Tom Munson, on April 4, 2011. Rule R647-7-103 et. seq. has been utilized to determine the proposed penalty of \$506.00. The enclosed worksheet outlines how the civil penalty was assessed.

By these rules, any written information submitted by you or your agent within fifteen (15) days of receipt of the cessation order has been considered in determining the facts surrounding the violation and the amount of this penalty.

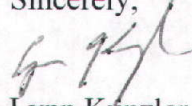
Under R647-7-106, there are two informal appeal options available to you. You may appeal the 'fact of the violation', the proposed civil penalty, or both. If you wish to informally appeal you should file a written request for an informal conference within thirty 30 days of receipt of this letter.

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Darrell Boepple
S/019/0064
May 16, 2011

The informal conference will be conducted by a Division-appointed conference officer. The informal conference for the fact of the violation is distinct from the informal assessment conference regarding the proposed penalty. If you wish to review both the fact of the violation and proposed penalty assessment, you should file a written request for an assessment conference within thirty (30) days of receipt of this letter. In this case, the assessment conference will be scheduled immediately following the review of the fact of the violation.

If a timely request for review is not made, the fact of the violation will stand, the proposed penalty will become final, and will be due and payable within thirty (30) days of the date of this proposed assessment (by June 15, 2011). Please remit payment to the Division, mail c/o Vicki Bailey.

Sincerely,



Lynn Künzler
Assessment Officer

LK:eb

Enclosure: Proposed assessment worksheet

cc: Vicki Bailey, Accounting
Vickie Southwick, Exec. Sec.

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PROVIDE AN EXPLANATION OF POINTS:

********The violation had been discovered before actual damage occurred. However, had the event not been discovered in a timely manner, exposure to the public or environment by these materials creates a potential damage. Since the site had been vandalized, points are assigned at the mid point of the range.*

B. ADMINISTRATIVE VIOLATIONS (Max 25pts) Does not apply to this violation.

TOTAL SERIOUSNESS POINTS (A or B) 22

III. DEGREE OF FAULT (Max 30 pts.) (R647-7-103.2.13)

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO--NO NEGLIGENCE; or, was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care, the failure to abate any violation due to the same or was economic gain realized by the permittee? IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Negligence

ASSIGN NEGLIGENCE POINTS 10

PROVIDE AN EXPLANATION OF POINTS:

********Operator had been cited in the past for this same type of violation, he should have been aware of the need to store potentially hazardous materials in a safe and secure manner. Since the operator had been cited in the past for the same nature of this violation, points were assigned above mid-point of the range.*

IV. GOOD FAITH (Max 20 pts.) (R467-7-103.2.14)

Either A (easy abatement) or B (difficult abatement). (Does not apply to violations requiring no abatement measures)

- A. EASY ABATEMENT - Did the operator have onsite, the resources necessary to achieve compliance of the violated standard within the permit area? NO

Easy Abatement Situation

- | | | |
|-------------------------|-------------|--|
| 1. Immediate Compliance | -11 to -20* | (Immediately following the issuance of the NOV) |
| 2. Rapid Compliance | -1 to -10 | (Permittee used diligence to abate the violation) |
| 3. Normal Compliance | 0 | (Operator complied within the abatement period required) |

*Assign in upper of lower half of range depending on abatement occurring the 1st or 2nd half of abatement period.

- B. DIFFICULT ABATEMENT - Did the permittee not have the resources at hand to achieve compliance, or does the situation require the submission of plans prior to physical activity to achieve compliance? YES ?

Difficult Abatement Situation

- | | | |
|------------------------|------------|---|
| 4. Rapid Compliance | -11 to -20 | (Permittee used diligence to abate the violation) |
| 5. Normal Compliance | -1 to -10 | (Operator complied within the abatement period required) |
| 6. Extended Compliance | 0 | (Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard of the plan submitted for abatement was incomplete) |

ASSIGN GOOD FAITH POINTS 20

PROVIDE AN EXPLANATION OF POINTS:

**** Operator immediately mobilized equipment necessary to abate the violation. Compliance was achieved within less than 1/2 the time allotted by the inspector to abate the violation. This is considered 'Rapid Compliance' and due to the apparent diligence to abate this violation, the maximum of 20 Good Faith Points is applied.*

V. ASSESSMENT SUMMARY (R647-7-103.3)

NOTICE OF VIOLATION # MC-2011-25-01

I.	TOTAL HISTORY POINTS	<u>5</u>
II.	TOTAL SERIOUSNESS POINTS	<u>28</u>
III.	TOTAL NEGLIGENCE POINTS	<u>10</u>
IV.	TOTAL GOOD FAITH POINTS	<u>-20</u>
	TOTAL ASSESSED POINTS	<u>23</u>

TOTAL ASSESSED FINE **\$506.00**